IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITIN NO.1750 0F 2003

Advani Oerlikon Ltd.
and Ors. ..Petitioners

Vs.

Shri.Shatrughna Vishwanath
Gaikwad & Anr. ..Respondents

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Mr.S.B.Shetye i/b M/s.Haresh Mehta & Co.
Advocate for Petitioners
Mr.Ajay Bhagwara for Respondent no.1
Ms.S.V.Gajare A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : OCTOBER 7, 2005

P.C.

1. Leave to amend granted. Amendment to be carried out forthwith.

2. Heard the learned advocate for the petitioners, learned advocate for the respondent no.1-complainant and the learned A.P.P. for the State.

3. The petitioners are seeking quashing of process

issued by the learned Judicial Magistrate, F.C.Pimpri, Pune in C.C.No.491 of 2001. In the said case process was issued against the applicants under Sections 418, 504, 506 r.w. 34 of IPC.

4. The petitioners had preferred an application before the learned Magistrate for recall of process. The said application came to be rejected by the learned Magistrate. In view of the observations of the Supreme Court in the case of **Adalat Prasad Vs.Rooplal Jindal & Ors. reported in 2004 (7) SCC 338,** it is clear that the Magistrate cannot recall the process. In this view of the matter, I am not inclined to interfere with the order of the learned Magistrate rejecting the application for recall of process. However, for the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioners prefer a revision before the concerned Sessions Court

against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioners makes a statement that the necessary revision will be preferred within four weeks from today. I am informed that the matter before the trial Court is kept on 19.10.2005. In view of this statement, the trial Court shall not proceed with the proceedings on 19.10.2005 and for a period of three weeks thereafter.

. The learned advocate for the respondent no.1-complainant fairly states that no objection will be raised in respect of delay in filing the revision. However, the learned advocate for the respondent no.1-complainant states that four days advance notice of filing revision may be given to the learned advocate for the complainant. Accordingly, the learned advocate for the petitioners to give four days advance notice of filing the revision to the learned advocate for the

respondent no.1-original complainant.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties. The learned Judge shall dispose of the same as expeditiously as possible.

6. Writ Petition is disposed of.

7. Authenticated copy be issued to the parties.

[V.K.TAHILRAMANI,J.]